

Commodity Futures Trading Commission

§ 22.16

and procedures of such derivatives clearing organization, and

(2) As of the close of business on the business day on which the margin call is not met, the market value of the Cleared Swaps Collateral held by the derivatives clearing organization is, due to changes in such market value, less than the amount specified in § 22.12(c)(2) of this part, then the amount of collateral attributable to each Cleared Swaps Customer pursuant to § 22.12(c)(1) of this part shall be reduced by the percentage difference between the amount specified in § 22.12(c)(2) and such market value.

(g) A derivatives clearing organization or Collecting Futures Commission Merchant is entitled to reasonably rely upon any information provided by a defaulting futures commission merchant under § 22.14. If the defaulting futures commission merchant does not provide such information on the date of the futures commission merchant's default, a derivatives clearing organization or Collecting Futures Commission Merchant may rely on the information previously provided to it by the defaulting futures commission merchant.

[77 FR 6371, Feb. 7, 2012, as amended at 77 FR 66335, Nov. 2, 2012]

§ 22.15 Treatment of Cleared Swaps Customer Collateral on an individual basis.

Subject to § 22.3(d), each derivatives clearing organization and each Collecting Futures Commission Merchant receiving Cleared Swaps Customer Collateral from a futures commission merchant shall treat the value of collateral required with respect to the portfolio of rights and obligations arising out of the Cleared Swaps intermediated for each Cleared Swaps Customer, and collected from the futures commission merchant, as belonging to such Cleared Swaps Customer, and such amount shall not be used to margin, guarantee, or secure the Cleared Swaps or other obligations of the futures commission merchant, or of any other Cleared Swaps Customer, Futures Customer (as § 1.3 of this chapter defines that term), or Foreign Futures or Foreign Options Customer (as § 30.1 of this chapter defines that term). Nothing contained herein shall be construed to limit, in

any way, the right of a derivatives clearing organization or Collecting Futures Commission Merchant to liquidate any or all positions in a Cleared Swaps Customer Account in the event of a default of a clearing member or Depositing Futures Commission Merchant.

[77 FR 66335, Nov. 2, 2012]

§ 22.16 Disclosures to Cleared Swaps Customers.

(a) A futures commission merchant shall disclose, to each of its Cleared Swaps Customers, the governing provisions, as described in paragraph (c) of this section, relating to use of Cleared Swaps Customer Collateral, transfer, neutralization of the risks, or liquidation of Cleared Swaps in the event of a default by the futures commission merchant relating to the Cleared Swaps Customer Account, as well as any change in such governing provisions.

(b) If the futures commission merchant referenced in paragraph (a) of this section is a Depositing Futures Commission Merchant, then such futures commission merchant shall disclose, to each of its Cleared Swaps Customers, the governing provisions, as described in paragraph (c) of this section, relating to use of Cleared Swaps Customer Collateral, transfer, neutralization of the risks, or liquidation of Cleared Swaps in the event of a default by:

(1) Such futures commission merchant or

(2) Any relevant Collecting Futures Commission Merchant relating to the Cleared Swaps Customer Account, as well as any change in such governing provisions.

(c) The governing provisions referred to in paragraphs (a) and (b) of this section are the rules of each derivatives clearing organization, or the provisions of the customer agreement between the Collecting Futures Commission Merchant and the Depositing Futures Commission Merchant, on or through which the Depositing Futures Commission Merchant will intermediate Cleared Swaps for such Cleared Swaps Customer.

[77 FR 6371, Feb. 7, 2012]